

The court incorporates by reference in this paragraph the Judgment set forth below. This document has been entered electronically in the record of the United States Bankruptcy Court for the Northern District of Ohio.



**Dated: June 5 2013**

A blue ink signature of Mary Ann Whipple, written in a cursive style.

Mary Ann Whipple  
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

In re:	)	Case No. 13-30210
	)	
John Matthew Burnett	)	Chapter 7
	)	
	)	
Debtor	)	Judge Mary Ann Whipple

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**AGREED ORDER APPROVING STIPULATION THAT DEBT DUE AND OWING TO  
THE STATE OF OHIO, DEPARTMENT OF JOB AND FAMILY SERVICES IS  
NONDISCHARGEABLE AND OTHER RELIEF**

This cause came before the Court upon the motion filed by the State of Ohio, Department of Job and Family Services (“ODJFS”) to approve a stipulation between ODJFS and the Debtor, John M. Burnett (the “Debtor”) relating to the dischargeability of a certain debt due and owing by the Debtor to ODJFS (the Stipulation). By agreement and consent of ODJFS and the Debtor, the Court hereby finds as follows:

1. As of the date of the filing of the bankruptcy petition the Debtor owed ODJFS the principal sum of \$11,304.00 for fraudulently obtained unemployment compensation benefits plus interest as set forth in O.R.C. 4141.35 and 4141.23.(B)(2) and statutory collection fees as set forth in O.R.C. 131.02.
2. The parties, ODJFS and the Debtor, wishing to amicably resolve the matter, have entered into a stipulation that is appended hereto as Exhibit A which, *inter alia*, finds that the amounts owed by the Debtor to ODJFS as a result of the Debtor having obtained unemployment compensation payments by fraud, together with related fees and charges as are more fully described in the Exhibit A Stipulation are held to be non-dischargeable and excepted from discharge pursuant to 11 USC §523(a)(2).
3. ODJFS shall recover a judgment against the Debtor for all principal (\$11,304.00), interest and statutory collections fees.
4. Both parties, having been represented by counsel, and upon review of the stipulation by this Court, it is found that the stipulation is just and proper.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that, pursuant to the agreement of the parties, the Motion (DOC # 15) is hereby granted and the Exhibit A Stipulation appended hereto submitted to the Court on June 3, 2013 is hereby approved.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

1. Judgment is granted in favor of ODJFS against John M. Burnett in the amount of \$11,304.00 plus interest from and after April 16, 2011 at the statutory rate of fourteen percent (14%) per annum compounded monthly and collection fees in the amount of eleven percent (11%) of all sums received by or on behalf of ODJFS; and

2. The Debtor, John M. Burnett, may satisfy the Judgment by making the payments as set forth in the Stipulation appended hereto as Exhibit A, the terms of which are incorporated herein by reference and adopted as findings of fact and conclusions of law by this Court.

# # #

**SUBMITTED AND APPROVED BY,**

/s/ Raymond L. Beebe  
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(419) 244-8538 (fax)  
rlbagct@buckeye-express.com  
Special Counsel for the Attorney for State  
of Ohio, Department of Job and Family  
Services

**AGREED**

/s/Paul H Duggan  
Paul H Duggan, Authority on File  
Duggan Law Office Co. LPA  
1426 East High Street  
Bryan, OH 43506  
(419) 636-2999  
(419)636-3499(fax) bryanohio@gmail.com  
Attorney for John M. Burnett, Debtor

**AGREED**

/s/John M. Burnett  
John M Burnett, Debtor  
Authority on File  
62 Charnell Dr.  
Defiance OH 43512

## **SERVICE LIST**

Office of the United State Trustee  
(Registered address)@usdoj.gov

Louis J Yoppolo, Trustee at  
yoppolo-tr@snhslaw.com pleach@snhslaw.com yoppolo@ecf.epiqsystems.com

Paul H. Duggan, on behalf of John Matthew Burnett at  
dugganlaawoffice@cityofbryan.net

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

In re:	)	Case No.13-30210
	)	
John Matthew Burnett	)	Chapter 7
	)	
	)	
Debtor.	)	Judge Mary Ann Whipple

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**STIPULATION THAT DEBT DUE AND OWING TO THE STATE OF OHIO,  
DEPARTMENT OF JOB AND FAMILY SERVICES IS NONDISCHARGEABLE**

By agreement between the State of Ohio, Department of Job and Family Services (“ODJFS”) and the Debtor, John Matthew Burnett (“Debtor”), ODJFS and Debtor hereby stipulate to the following;

1. This is a core proceeding over which this Court has jurisdiction pursuant to 28 U.S.C. §§157(b)(2) and 1334.
2. On or about January 23, 2013, the Debtor filed a Petition under Chapter 7 of the United States Bankruptcy Code for the liquidation of Debtor’s assets and the discharge of debts.
3. Beginning on or about August 22, 2010 through on or about April 16, 2011 (“the UC Period”) Debtor applied for and received unemployment compensation benefits from or through ODJFS pursuant to O.R.C. §4141.01, et seq.
4. During the UC Period, Debtor was employed at Bockelman Co.
5. During the UC Period, Debtor filed applications with ODJFS for unemployment compensation, was required to disclose any and all employment during such period, did not disclose to ODJFS that he was employed at Bockelman Co. and received

unemployment compensation benefits in the amount of Eleven Thousand Three Hundred Four and 00/100 Dollars from ODJFS relative to the UC Period to which he was not entitled (the “UC Benefits”). Debtor has not repaid any of said amounts to ODJFS and presently owes said principal amount plus additional charges.

6. The unemployment compensation the Debtor received to which he was not entitled under Ohio and Federal law are not dischargeable pursuant to 11 U.S.C. §523(a)(2)(A) (false pretenses, false representation, or actual fraud) and §523(a)(7) (fine payable to and for the benefit of a governmental unit).
7. There is due ODJFS from the Debtor for overpayment of unemployment compensation benefits which the Debtor obtained through fraud the principal sum of Eleven Thousand Three Hundred Four and 00/100 Dollars (\$11,304.00) as of the date of the filing of the bankruptcy petition.
8. Interest pursuant to O.R.C. § 4121.35 and 4141.23 (B)(2) and collection fees pursuant to O.R.C. § 131.02 continue to accrue on the unpaid UC Benefits until paid.
9. The parties stipulate and agree that the Court shall enter an order awarding a judgment in favor of ODJFS against John Matthew Burnett in the principal amount of Eleven Thousand Three Hundred Four and 00/100 Dollars (\$11,304.00) plus interest at the statutory rate of fourteen percent (14%) per year compounded monthly pursuant to O.R.C. §§ 4141.35 and 4141.23 (B)(2) and statutory collection fees of eleven percent (11.0%) per annum pursuant to O.R.C. § 131.02, and declaring that the UC Benefits, interest and collection fees are not dischargeable and are excepted from discharge.

10. The Debtor may satisfy his obligation to repay ODJFS the UC Benefits plus the interest and collection fees described above by paying to ODJFS the sum of \$15,260.00 in monthly payments of at least \$100.00 due and payable on the 25<sup>th</sup> day of the month beginning May 25, 2013 and thereafter until June 1, 2015 when the monthly payment will be increased to an amount equal to the remaining balance paid in 12 equal monthly installments. Further the Debtor will provide additional annual payments equal to the total of his federal and state tax refunds on or before April 15<sup>th</sup> of each year beginning April 15<sup>th</sup> 2014 for each tax year that the agreement remains in place until the balance is paid in full. The entire amount outstanding at any time may be paid without penalty prior to the date upon which such payment(s) are due; Payments due on a Saturday, Sunday or legal holiday shall be due the day immediately following the day on which banks and government offices are open to conduct regular business; If the Debtor fails to make any of the payments provided hereunder, if any payment is not honored by the Debtor's financial institution or if for any other reason ODJFS does not receive a payment in a timely manner, the full amount of principal then due and owing together with all interest and collections fees that would have been owed but for this Stipulation and Agreement, less all sums received from Debtor prior to the default, shall become due and payable immediately without further notice to Debtor or his attorney and interest and collection fees shall continue to accrue and be charged until the debt is paid in full.

11. Unless otherwise notified, all payments due under this agreement must be made by check or money order payable to “**Treasurer, State of Ohio**” and remitted to the following address to arrive no later than the 25<sup>th</sup> of each month:

State of Ohio, Attorney General  
C/O Raymond L. Beebe, Special Counsel  
1107 Adams Street  
Toledo, OH 43604

12. Debtor acknowledges and agrees that nothing in this agreement waives or otherwise compromises the rights and ability of ODJFS, its agents or assigns, to exercise its statutory rights of set off, recoupment or recovery of the entirety of the obligation. Such recovery thereunder shall not be construed as a credit or payment to the Debtor’s payment agreement unless and until the entirety of the obligation set forth in paragraph 9 of the Stipulation is paid in full. The full and timely payment of all payments under the installment agreement set forth in paragraph 10 shall be deemed a satisfaction of the obligation upon receipt of all payments and deemed a satisfaction of the obligation upon receipt of all payments and deemed repaid as that term is used in O.R.C. § 4141.35(A)(3). All of the provisions set forth O.R.C. § 4141.35 shall continue to apply.

13. The debt to ODJFS described above and resolved hereby relates only to Debtor, John Matthew Burnett.



**SUBMITTED AND APPROVED BY,**

/s/Raymond L. Beebe

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Special Counsel for the Attorney for State  
of Ohio, Department of Job and Family  
Services

**AGREED**

//s/Paul H Duggan

Paul H Duggan, Authority on File  
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1426 East High Street  
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(419)636-3499(fax)  
bryanohio@gmail.com  
Attorney for John M. Burnett, Debtor

**AGREED**

/s/John M. Burnett

John M Burnett, Authority on File  
62 Charnell Dr.  
Defiance OH 43512

## CERTIFICATE OF SERVICE

This is to certify that on 3 June 2013 a true and correct copy of the Stipulation that Debt Due and Owing to the State of Ohio, Department of Job and Family Services is Nondischargeable as served:

Via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

Office of the United State Trustee  
(Registered address)@usdoj.gov

Louis J Yoppolo, Trustee at  
yoppolo-tr@snhslaw.com pleach@snhslaw.com yoppolo@ecf.epiqsystems.com

Paul H. Duggan, on behalf of John Matthew Burnett at  
dugganlaawoffice@cityofbryan.net

/s/ Raymond L. Beebe  
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